



**PRELIMINARY DRAFT
No. 3239**

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 35-44-1-2.

Synopsis: Official misconduct. Specifies that a public servant commits official misconduct if the public servant commits an offense while misusing a power possessed by virtue of state law, or if the public servant commits an offense while appearing to be exercising authority granted by state law. Provides that a law enforcement officer who, knowing that the entry is unlawful, enters the residence of another person without having a reasonable belief that the unlawful entry is necessary to prevent injury or death, commits unlawful entry by law enforcement, a Class D felony.

Effective: July 1, 2012.



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-44-1-2, AS AMENDED BY P.L.102-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) A public servant who knowingly or intentionally:

(1) commits an offense in the performance of the public servant's official duties, **including an offense committed while the public servant:**

(A) was misusing a power possessed by virtue of state law; or

(B) appeared to be exercising authority granted by state law;

(2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment;

(3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or

(4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies;

commits official misconduct, a Class D felony.

(b) A law enforcement officer who, knowing that the entry is unlawful, enters the residence of another person without having a reasonable belief that the unlawful entry is necessary to prevent injury or death, commits unlawful entry by law enforcement, a Class D felony.

